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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS GRANT BARNES,

Defendant and Appellant.

D061744

(Super. Ct. No. SCE306420)

APPEAL from a judgment of the Superior Court of San Diego County, Lantz  
Lewis, Judge. Affirmed.

Thomas Grant Barnes entered guilty pleas to eight felony offenses and admitted four prison priors (Pen. Code,<sup>1</sup> § 667.5, subd. (b)), two serious felony prior convictions (§ 667, subd. (a)(1)) and two serious/violent felony prior convictions (§ 667, subds. (b)-(i) (strike priors)).

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise noted.

At sentencing the trial court denied Barnes's motion to dismiss at least one of the strike priors. The court dismissed counts 6 through 8 in the furtherance of justice (§ 1385) and imposed a sentence of 50 years to life plus a 21-year determinate term of imprisonment. Barnes obtained a certificate of probable cause and filed a timely notice of appeal.

Counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*) raising a possible, but not arguable issue. We offered Barnes the opportunity to file his own brief on appeal, but Barnes has not responded.

#### STATEMENT OF FACTS

Since this case arises from guilty pleas and since there was no preliminary hearing held in this case we will take the statement of facts from the probation officer's report as an appropriate summary of the facts of the offenses.

On November 20, 2010, at approximately 2:00 p.m., the defendant entered the Goodwill Thrift store on Mission Gorge Road in Santee, and stole about \$500 in clothing. He fled in his vehicle (Saturn), along with his girlfriend, Cynthia Manning. A witness recorded the vehicle's license plate number. Video surveillance captured the defendant committing the offense.

On November 20, 2010, at approximately 10:00 p.m., the defendant entered the CVS retail store on Mission Gorge Road in Santee. Manning waited in the Saturn and the defendant told Manning to keep the vehicle running. The defendant stole several items worth \$200 and left without paying. A store employee recorded the license plate

number. Subsequently it was discovered the Saturn was registered to the defendant's mother, but the defendant was the usual driver.

On November 21, 2010, at approximately 12:10 a.m., a deputy with the San Diego County Sheriff's Office observed the Saturn parked in the Denny's parking lot in El Cajon. Subsequently the defendant left and the deputy followed. A traffic stop was attempted but the defendant failed to yield and traveled at a high rate of speed through residential areas, eventually crashing into a fence. The defendant exited the driver's seat and ran away. Manning remained in the Saturn. The defendant was not apprehended. Manning told deputies that she had been with the defendant earlier at the Goodwill store and CVS.

On November 21, 2010 at 2:30 a.m., the defendant entered a 7-11 store in El Cajon armed with a hammer. He demanded money and cigarettes from the clerk, Jason Radi, who complied as he was fearful. The defendant left with \$100 in cash and \$175 in cigarettes. The defendant was captured on video surveillance.

On November 21, 2010 at approximately 3:20 a.m., the defendant entered an AM/PM store in El Cajon. While holding a hammer he briefly followed a store clerk, Emad Saka, around saying, in part, "Hurry up, hurry up, I'm gonna pound your head in the dirt. Get on the ground or I'm gonna kill you." The clerk was scared and fled to a rear room. Saka watched on surveillance the defendant pound the cash register with the hammer and then steal one of the smaller register drawers. The estimated loss and damage was \$2,500 (\$500 in cash, \$1,000 for the theft of the drawer, and \$1,000 for the damage to the second cash drawer.)

On November 21, 2011, at approximately 9:30 a.m., the defendant's brother, Joshua Dorval, contacted the El Cajon Police Department and reported that the defendant was trying to break into his vehicle. Dorval said the defendant was at a friend's apartment and was yelling and saying he was going to break into Dorval's vehicle. Dorval said he had received a call from the defendant around midnight the night before and Dorval picked him up on Los Coches Road in El Cajon (close to where the defendant fled from the deputy). The defendant told Dorval that he was "running from the police" and he wanted Dorval to drive him to a convenience store to commit a robbery. Dorval refused and dropped the defendant off in El Cajon.

The defendant was contacted and arrested. He refused to make a statement regarding the offense. He was transported and booked into county jail.

#### DISCUSSION

As we have previously noted, appellate counsel has filed a brief indicating he is unable to identify any argument for reversal and asks this court to review the record for error as mandated by *Wende, supra*, 25 Cal.3d 436. Pursuant to *Anders, supra*, 386 U.S. 738, the brief identifies the following possible, but not arguable issue:

Whether the trial court abused its discretion in denying the defense request to dismiss at least one of the strike priors.

We have reviewed the entire record in accordance with *Wende, supra*, 25 Cal.3d 436 and *Anders, supra*, 386 U.S. 738 and have not found any reasonably arguable appellate issues. Competent counsel has represented Barnes on this appeal.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

HALLER, J.

O'ROURKE, J.